



Briefing Report No: **95/2011**

Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Variation to a Premises Licence in respect of Lighthouse and Fusion, 26 Esplanade Road, Paignton**

Wards Affected: **Roundham with Hyde**

To: **Licensing Sub- Committee** On: **28 April 2011**

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1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Variation to a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 As the Licensing Authority has no powers under the Act to raise a Representation, Officers are unable to make any recommendation.
- 1.4 The matters raised relate to the Licensing Objective “The Prevention of Crime and Disorder”, “The Prevention of Public Nuisance” and “The Protection of Children from Harm”
- 1.5 The matter must be considered on its merits having received details of the issues arising either at a hearing or by written Representation if all parties have agreed that a hearing is not necessary. Having regard to the Representation, a decision must be made to take such steps as are necessary for the promotion of the licensing objectives. These are either:-
 - (a) to modify the conditions of the licence, or
 - (b) reject the application in whole or in part.

For this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

2. Introduction

- 2.1 An application has been made under Section 34 of the Act for a Variation to a Premises Licence. Details of the application are shown in Appendix 1. Only the relevant pages of the application are shown.

A brief description of the proposed Variation is as follows:-

To allow the Supply of Alcohol on the Premises from 1100 to 0100 Monday to Saturday and from 0900 to Midnight on Sundays.

To extend the provision of Recorded Music from 0900 to 0100 Monday to Sunday (Indoors)

To be open to the public from 0900 until 0130 Monday to Saturday and from 0900 to 0030 on Sundays.

The Premise is currently licensed to provide Recorded Music from 0900 to 2330 from Sunday to Thursday and 0900 to 0030 on Friday and Saturday.

- 2.2 There is a current Premises Licence in place which is shown as Appendix 2.

- 2.3 Torbay Council as the Licensing Authority is satisfied that the Applicant has met the administrative requirements of Section 35(1) but is unable to issue the amended Premises Licence, as relevant Representations have been received from Interested Parties. The Licensing Authority is also satisfied that Representations were received within the appropriate time-scale, have not been subsequently withdrawn and are not vexatious or frivolous.

We have received a Representation from the Police in relation to the Licensing Objective "The Prevention of Crime and Disorder". This is shown as Appendix 3.

We have received a Representation from Community Safety in relation to the Licensing Objective "The Prevention of Public Nuisance". This is shown as Appendix 4

The Licensing Authority has also received six Representations from Interested Parties in relation to the Licensing Objectives "The Prevention of Crime and Disorder", "The Prevention of Public Nuisance" and "The Protection of Children from Harm". These are shown as Appendix 5.

There have been no additional Representations received from any other Responsible Authority or any other Interested Party.

- 2.4 The Authority is required to conduct a hearing by the provisions of Section 35(3) unless all parties agree that this is not necessary.
- 2.5 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.6 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 1 of Schedule 5, to

the Applicant.

- 2.7 If the application is granted, a Right of Appeal to the Magistrates' Court is granted by Section 181 of the Act and, by Paragraph 4(2) of Schedule 5 to :-
- (a) The applicant for the variation of the licence against any decision to modify the conditions
 - (b) Any person who made a relevant representation in relation to the application who desires to contend
 - (i) that any variation made ought not to have been made, or
 - (ii) that, when varying the licence, the Licensing Authority ought to have modified the conditions of the licence or ought to have modified them in a different way.
- 2.8 Following such Appeal, the Magistrates' court may:-
- (a) dismiss the appeal,
 - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
 - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such order as to costs as it thinks fit.

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1	Relevant parts of the application form
Appendix 2	Copy of the current Premises Licence
Appendix 3	Copy of the Representation from the Police
Appendix 4	Copy of the Representation from Community Safety
Appendix 5	Copy of the Representations from Interested Parties

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

The current Premises Licence for the above Premise.
Torbay Council Licensing Policy 2008 - 2011.